

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CRIMINAL MINUTES - GENERAL MINUTES

Case No.: 4:18CR11

Date: 9/13/2019

Defendant:

US v Marcus J. Davis, et al

Counsel:

4:18-cr-00011-MFU-RSB-1 Marcus Jay Davis
4:18-cr-00011-MFU-RSB-2 Kevin Lamont Trent, Jr.
4:18-cr-00011-MFU-RSB-3 Kanas Lamont'e Trent
4:18-cr-00011-MFU-RSB-4 Deshaun Lamar Trent
4:18-cr-00011-MFU-RSB-5 Phillip Daekwon Miles
4:18-cr-00011-MFU-RSB-6 Shabba Larun Chandler
4:18-cr-00011-MFU-RSB-8 Ashley Tiana Ross –
waived appearance rights
4:18-cr-00011-MFU-RSB-10 Tenikqua Fuller-
waived appearance rights

**Tony Anderson, Bev Davis
Aaron Cook, Jimmy Turk
Bonnie Lepold, Mike Hemenway
Chris Kowalczyk, Patrick Kenney
Tyson Daniel, Bob Rider
Aaron Houchens, Jeff Dorsey
Terry Grimes**

Corey Diviney

4:18-cr-00011-007 Matthew Ferguson

Fred Heblich

PRESENT:	JUDGE:	Michael F. Urbanski, CUSDJ
	TIME IN COURT:	9:42-12:03; 12:27-1:38 3h 32m
	Deputy Clerk:	Kristin Ayersman
	Court Reporter:	Mary Butenshoen
	U. S. Attorney:	Ron Huber, Heather Carlton
	USPO:	Kim Falatic
	Case Agent:	Devin Taylor, FBI
	Interpreter:	none

PROCEEDINGS:

PTM/PTC

Court addresses parties – will address every outstanding motion filed in this case by written order next week.

Discussion of issue re Mr. Ferguson – Mr. Heblich present, Ms. Black not. Deshaun Trent/Mr. Kowalczyk raises issue of subpoena. Court notes another PTC hearing coming up and of course, trial, should subpoena be issued. Court wants to start with 404b issue/Queen (by proffer). Mr. Ferguson now present – court asks Deshaun Trent/Mr. Kowalczyk what needs to be done procedurally, asks Mr. Heblich to come to podium. Court addresses issues with acceptance of PA, vacating the PA. Mr. Heblich states Mr. Ferguson does not wish to w/d his GP, and that the only change in the SOF, if submitted today, would only remove two words. Mr. Ferguson states he still wishes to plead guilty. Court vacates acceptance of Mr. Ferguson's GP by oral order; will conduct new, more fulsome colloquy. Mr. Heblich raises issue of continuing representation of this dft in this case due to issue with former FPD employee – not moving at this time for w/d, but raising that issue. Court addresses that concern. Court sees no conflict. US agrees. Response from defendants. Mr. Heblich responds. Mr. Heblich doesn't see conflict. Court asks US for suggestions/guidance on dealing with issue. Mr. Turk raises concern about

Mr. Ferguson listening to counsel's current discussion – Mr. Ferguson excluded. Deshaun Trent/Mr. Kowalczyk intends to issue service of subpoena for 9/27 hearing. Marcus Davis/Mr. Anderson responds, court asks what counsel proposes it should do. Kanas Trent/Ms. Lepold responds – asks to revisit issue after new colloquy after evidentiary hearing held on issue. Kevin Trent/Mr. Cook – responds this is an issue for trial. US/Ms. Carlton wants to clarify 8/30 letter to alleviate confusion. Court asks defense counsel about scheduling re evidentiary hearing – court wants all dfts present, wants to hear from Mr. Ferguson, wants Ms. Black to be summonsed, and does not think new Rule 11 hearing should be before evidentiary; FBI agent involved. Court denies [716] bill of particulars. Deshaun Trent/Mr. Kowalczyk asks to table 404b issues until 9/27. Court advises Mr. Heblich to file a motion to w/d if he needs to. Marcus Davis/Mr. Davis raises issue. US responds referring to US Ex 1627. Court asks if proffer could be made or if US intends to put on evidence – US states preference by proffer. US makes proffer. Deshaun Trent/Mr. Kowalczyk responds re 404b issue. Marcus Davis/Mr. Davis responds. Court rules as stated on record. Court will not strike this evidence and overrules objections. Ms. Lepold starts to address issue of character evidence, US pre-empts with explanation. Ms. Lepold addresses. US will make Giglio disclosures. Mr. Daniels has question about timing relative to next hearing. Court addresses US use of specific evidence – argument by Mr. Houchens, US. Mr. Kowalczyk addresses document that Mr. Houchens concerned with. Mr. Cook unsure of admissibility for other dfts, but admissible for Mr. Kevin Trent. Court asks Mr. Grimes about transcript issue with Ms. Ross – Mr. Grimes asks for another hearing for those objections. Court asks what those objections are. Mr. Grimes has redacted/unredacted transcripts. US has redacted GJ transcripts for trial exhibits. US Ex 1800 at issue. Court will set hearing and will notice all parties so that they may appear voluntarily, but will not require attendance. Recess 12:03. Reconvene 12:27. Mr. Kowalczyk addresses FB texts/attachment, concerned with identification of attachment – who wrote them. US responds. Court responds. Mr. Kowalczyk addresses ECF 732 motion for bill of particulars. US responds. Mr. Kowalczyk has additional argument. ECF 735- Marcus Davis/Mr. Anderson – Mr. Anderson states resolved, not asking court to make ruling on motion at this time. Same with ECF 732. Mr. Kowalczyk has additional concern. US responds – ECF 656, Mr. Kowalczyk's response is ECF 666. Court rules as stated on record. Mr. Davis raises issue re status of technology in courtroom – JERS order filed at ECF 617. Mr. Kowalczyk has one other motion re US jury instructions. Requesting to have until 10/7 to respond to US instructions. US response, doesn't oppose extension of time but would prefer ddl prior to start of trial. Court will give until 10/1. Mr. Diviney filed obj re phones, bandana on behalf of his client that was not on list of things to cover – addresses now. US responds that this was responded to in omnibus response. Court will review again. Mr. Diviney has further argument. Written ruling forthcoming. Court will address exhibit issues in written order. Court addresses parties re jury selection and questionnaires. Discussion re jury selection process. Ms. Bright to create random list to divide into the six panels. Court recaps for parties.

